



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

MEMORANDUM

TO Board of Environmental Protection
FROM Peter Carleton, Bureau of Air Quality Control
SUBJECT Boralex Livermore Falls, Inc. (Boralex)
DATE December 7, 2006

*** **

Statutory and Regulatory References:

Part 70 Air Emission License A-555-70-A-I contains Condition (30), as amended in Part 70 Air Emission License amendment A-555-70-H-A, which states in relevant part

(30) Semiannual Reporting

The licensee shall submit semiannual reports every six months to the Bureau of Air Quality. The semiannual reports are due January 30th and July 30th of each year.

Location:

Livermore Falls, Maine

Description:

On August 31, 2006, Department staff contacted the plant manager at Boralex by telephone to discuss the failed submission of the facility's 2006 semi-annual report which was due on July 30, 2006. Boralex followed up this telephone call by submitting the above mentioned semi-annual report on the afternoon of August 31, 2006. Having submitted the report more than 30 days after the report due date, Boralex is in violation of the facility's Part 70 Air Emission License A-555-70-A-I Condition (30), as amended in Part 70 Air Emission License amendment A-555-70-H-A.

Environmental Issues

The Department imposes air emission license conditions to ensure that the licensed equipment is operated in a manner consistent with good air pollution control practices and in a manner protective of air quality. Compliance with all air emission license conditions and applicable regulations is essential to the maintenance of good air quality.

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX (207) 287-7826
RAY BLDG., HOSPITAL ST

BANGOR
106 HOGAN ROAD
BANGOR, MAINE 04401
(207) 941-4570 FAX (207) 941-4564

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-0477 FAX (207) 760-3143

Department Recommendation:

Staff recommends approval of the Consent Agreement which requires Boralex to comply with the requirements of Part 70 Air Emission License A-555-70-A-1 and amendments and provides for payment of civil penalties in the amount of two thousand five hundred seventy five dollars (\$2,575). The penalty was a negotiated settlement based on the Air Bureau's penalty assessment guideline



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE HOUSE STATION 17
AUGUSTA, MAINE 04333

BOARD ORDER

IN THE MATTER OF:

Boralex Livermore Falls, Inc.)	ADMINISTRATIVE CONSENT
Androscoggin County)	AGREEMENT
Livermore Falls, Maine)	
A-555-70-A-I		

This Agreement by and among Boralex Livermore Falls, Inc., the Maine Board of Environmental Protection (the "Board") and the State of Maine Attorney General is entered into pursuant to 38 M.R.S.A. § 347-A(1)(A); and in accordance with the Department of Environmental Protection (the "Department") Consent Agreement Policy as amended

The parties agree as follows.

1. Boralex Livermore Falls, Inc., (Boralex) is a Delaware corporation in good standing to conduct business in Maine as an electricity generating facility
2. Boralex operates its Livermore Falls facility under the terms and conditions of Part 70 Air Emission License A-555-70-A-I, issued on September 8, 1999 and subsequent amendments. Air Emission License A-555-70-A-I was originally issued to Northeast Empire Limited Partnership #1 and the permit was transferred to Boralex on May 8, 2002. The facility's Air Emission License A-555-70-A-I and amendments provide for the operation of fuel burning and process equipment associated with electricity generation operations including a 585.9 MMBtu/hr wood burning boiler (Boiler #1)
3. Air Emission License A-555-70-A-I contains Condition (24), paragraph G, which states in relevant part:

(24) Boiler 1

G. NELP shall operate Boiler 1 such that the opacity does not exceed 20% over a six minute average except for one six minute period per hour of not more than 27%, subject to the provisions of Title 38 M.R.S.A. § 349 [MEDEP Chapter 140, BPT]

4 Upon review of the 2005 1st quarter quarterly report submitted to the Department by Boralex on April 28, 2006, the Department documented that Boralex experienced 18-minutes of opacity at 29% to 31% over three 6-minute block averages. As per Part 70 Air Emissions License A-555-70-A-I, Condition (24), paragraph G, the second and third 6-minute block averages of over 27% opacity are a violation of the facility's air emission license.

5. Air Emission License A-555-70-A-I contains Condition (30), as amended in Part 70 Air Emission License amendment A-555-70-H-A, which states in relevant part

(30) Semiannual Reporting

The licensee shall submit semiannual reports every six months to the Bureau of Air Quality. The semiannual reports are due January 30th and July 30th of each year.

6 On August 31, 2006, Department staff contacted the plant manager at Boralex by telephone to discuss the failed submission of the facility's 2006 semi-annual report which was due on July 30, 2006. Boralex followed up this telephone call by submitting the above mentioned semi-annual report on the afternoon of August 31, 2006. Having submitted the report more than 30 days after the report due date, Boralex is in violation of the facility's Part 70 Air Emission License A-555-70-A-I Condition (30), as amended in Part 70 Air Emission License amendment A-555-70-H-A.

7. Department staff issued a Letter of Warning (LOW) to Boralex on September 1, 2006, for the failed submittal of their semi-annual report.

8 A Notice Of Violation (NOV) was issued to Boralex on October 2, 2006 for the violation of Air Emission License A-555-70-A-I Condition (24), paragraph G and Air Emission License A-555-70-A-I Condition (30), as amended in Part 70 Air Emission License amendment A-555-70-H-A.

9 The Board has regulatory authority over the activities described herein.

10. This Agreement shall not become effective unless and until it is approved by the Board and the Department of the Attorney General.

11 To resolve the violations identified in paragraphs four (4) and six (6) of this Agreement, Boralex agrees to pay the sum of two thousand five hundred seventy five dollars (\$2,575) as a civil monetary penalty immediately upon signature of this Agreement, to the *Treasurer, State of Maine*.

- 12 The Board and the State of Maine Attorney General grant Boralex a release of the causes of action that they have for the specific violations described in paragraphs four (4) and six (6) of this Agreement in consideration of the payment called for in paragraph eleven (11) above. The release shall not become effective until all requirements of this Agreement are satisfied
- 13 Non-compliance with this Agreement voids the release set forth in paragraph twelve (12) of this Agreement and may lead to an enforcement action pursuant to 38 M R S A § 347-A(1)(A), 347-A(5), or 348, as well as pursuit of other remedies
- 14 Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all local, state and federal laws, including but not limited to licensing requirements
- 15 The provisions of this Agreement shall apply to, and be binding on, the parties, their officers, agents, servants, employees, successors, and assigns, and upon those persons in active concert or participation with them who receive actual notice of this Agreement

IN WITNESS WHEREOF the parties hereto have executed this agreement of three (3) Pages

BORALEX LIVERMORE FALLS, INC

BY:  Nov 8, 2006
 CLAUDE AUDET, VP AND CHIEF OPERATING OFFICER OF BIOMASS DATE

BOARD OF ENVIRONMENTAL PROTECTION

BY: _____
 MATTHEW SCOTT, CHAIR DATE

SEEN AND AGREED TO, STATE OF MAINE

BY: _____
 GERALD D REID, ASSISTANT ATTORNEY GENERAL DATE